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Attorney for Plaintiff Arunee Ryles

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ARUNEE RYLES,

Plaintiff,

v.

PALACE HOTEL; STARWOOD
HOTELS AND RESORTS; ITT
SHERATON,

Defendants.

Case No. C 04-05326 SBA

E-FILING

**REVISED STIPULATION AND ORDER
REGARDING CONTINUANCE OF TRIAL
DATE AND PRE-TRIAL DATES**

IT IS HEREBY STIPULATED BY AND AGREED by and between defendant Starwood
Hotels & Resorts Worldwide, Inc. ("Defendant"), and plaintiff Arunee Ryles ("Plaintiff"),
through their counsel of record, that the trial date in this action and certain pre-trial dates shall be
continued as set forth below. Good cause exists for this Stipulation and Order for the following

reasons: (1) Plaintiff's deposition has been re-scheduled at Plaintiff's request several times and has not yet been completed due, in part, to Plaintiff's relocation to Pensacola, Florida, and having started a new job in Florida as of September 2005, and Plaintiff will not be in the Bay Area again until approximately March 10, 2006; (2) the parties are attempting to schedule a mediation before an impartial arbitrator in an effort to resolve this matter short of protracted litigation, and hope to schedule that mediation prior to completing Plaintiff's deposition, again, on or around March 10, 2006; and (3) if that mediation is unsuccessful, Defendant plans to file a summary judgment motion, which Defendant cannot do without first completing Plaintiff's deposition, which it has not yet been able to do. Pursuant to this Stipulation, the pre-trial dates set forth in the Court's Order for Pretrial Preparation shall be amended. Pursuant to Rule 16(e) of the Federal Rules of Civil Procedure ("FRCP"), IT IS HEREBY ORDERED AS FOLLOWS:

A. Discovery Cut-Off:

The discovery cut-off shall remain the same except for the completion of Plaintiff's deposition, which shall be completed by **5/3/06**. The parties are responsible for scheduling discovery so that motions to resolve discovery disputes can be heard before the above discovery cut-off.

B. Motion Cut-Off

All dispositive motions shall be heard on or before **7/25/06** at 1:00 p.m. The parties must meet and confer *prior* to filing any motion. The movant shall certify to the Court in its moving papers that it has complied with this requirement. Should the parties fail to meet and confer, the Court may decline to entertain the motion.

THIS COURT DOES NOT RESERVE MOTION HEARING DATES. The parties are advised to contact Judge Armstrong's Deputy Clerk, Lisa Clark, to determine the next available hearing date, particularly in the case of a dispositive motion. The parties are advised not to wait until 35 days prior to the law and motion cut-off date to file and serve their motion. As the Court's law and motion calendar tends to fill quickly, there is *no* guarantee that a hearing date within the law and motion cut-off date will be available. You **MUST** submit a hard copy of all motion papers filed in E-FILED cases in order to be placed on calendar.

Pursuant to Civil Local Rule 7-1, 7-2, and 7-3, all civil motions shall be noticed for a hearing not less than thirty-five (35) calendar days after service. The opposition and supporting papers shall be filed not less than twenty-one (21) days before the noticed hearing date. The reply shall be filed not less than fourteen (14) days before the hearing date. Documents not filed in compliance with these time specifications will not be considered by the Court.

The failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute a consent to the granting of the motion.

The parties are not required to file a statement of undisputed facts in connection with a motion for summary judgment. However, if the parties desire to file a statement of undisputed facts, only one joint statement of undisputed facts signed by all parties, shall be filed. All separate statements will be stricken. If the parties are unable to agree that a fact is undisputed, they should assume that fact is in dispute.

Note that pursuant to Civil L.R. 7-1(b), the Court may, in its discretion, adjudicate motions *without* oral argument.

C. Mandatory Settlement Conferences

The parties are ordered to participate in a mandatory settlement conference during the following time period: **MAGISTRATE JAMES BETWEEN 7/31/06-8/11/06**

D. Pre-Trial Conference

All Counsel who will try the case shall appear for a pretrial conference in Courtroom 3 on **9/12/06** at 1:00 p.m.

E. Pre-Trial Preparation Due 8/22/06

1. Not less than *thirty (30) calendar days* prior to the pretrial conference, Counsel shall meet and confer in good faith in advance of complying with the following pretrial requirements in order to clarify and narrow the issues for trial, arrive at stipulations of facts, simplify and shorten the presentation of proof at trial, and explore possible settlement. In addition, Counsel shall meet and confer regarding anticipated motions in limine, objections to evidence, jury instructions, and any other matter which may require resolution by the Court.

2. The following matters shall be accomplished no later than *twenty-one (21) calendar days* prior to the pretrial conference:

a. Joint Pretrial Statement

Counsel are required to file a pretrial conference statement containing the following information:

(1) The Action

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of all the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents, or other evidentiary material to be presented concerning the amount of those damages.

(2) **The Factual Basis of the Action**

(A) **Undisputed Facts.** A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(B) **Disputed Factual Issues.** A plain and concise statement of all disputed factual issues which remain to be decided.

(C) **Agreed Statement.** A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) **Stipulations.** A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) **DISPUTED LEGAL ISSUES**

(A) **Points of Law.** Without extended legal argument, a concise statement of each disputed point of law concerning liability or relief, citing supporting statutes and decisions. Unless otherwise ordered, parties should cite to briefs served and lodged setting forth briefly the nature of each party's contentions concerning each disputed point of law, including procedural and evidentiary issues.

(B) **Proposed Conclusions of law.** If the case is to be tried without jury, unless otherwise ordered, parties should briefly indicate objections to proposed conclusions of law lodged with this Court.

b. **Trial Briefs**

Each party shall serve and file a trial brief which shall briefly state their contentions, the relevant facts to be proven at trial, and the law on the issues material to the decision.

c. **Finding of Fact**

In non-jury cases, each party shall serve and lodge with the Court proposed findings of fact and conclusions of law on all material issues. Findings shall be brief, clear, written in plain English and free of pejorative language, and argument.

d. **Witnesses**

Each party shall serve and file with the Court a list of all persons who may be called as witnesses. The list shall include a summary of the substance of each witness' proposed testimony. (Civil L.R. 16-15(4)(A))

e. **Designation of Discovery Excerpts**

Each party expecting to use discovery excerpts as part of its case in chief shall serve and lodge with the Court a statement identifying (1) by witness and page and line, all deposition testimony and (2) by lodged excerpt, all interrogatory answers and request for admissions to be used as part of its direct case. Each interrogatory answer intended to be offered as an exhibit shall be copied separately and marked as an exhibit. The original of any deposition to be used at trial must be produced at the time of trial, as well as a copy for the Court. Counsel shall indicate any objections to the use of these materials and advise the Court that counsel has conferred respecting such objections.

f. **Jury Instructions**

The parties shall file a joint set of proposed jury instructions as to those instructions on which the parties have reached agreement. As to any disputed instructions, each party shall separately submit its “proposed” instruction(s) supported by a memorandum setting forth the authority for its use. Responses or objections to any “proposed” jury instruction shall be filed no later than the date of the pretrial conference. All instructions shall be written in plain English which is comprehensible to jurors, concise and free of argument, and shall be organized in a logical fashion so as to aid jury comprehension and are also to be provided on a 3.5” computer disk. The Court’s practice is to utilize, whenever possible, instructions found in the Ninth Circuit Manual of Model Jury Instructions.

g. **Jury Voir Dire and Verdict Forms**

Each party shall submit proposed questions for jury voir dire and a proposed form of verdict.

h. **Exhibits**

Each party shall provide every other party one set of all exhibits, charts, schedules, summaries and diagrams and other similar documentary materials to be used at the trial together with a complete list of all such exhibits. The Court requires one original version of exhibits (as described above) for the Clerk and two copies (one for the Bench and one for the witness stand). All such versions of the exhibits, including the originals, should be indexed into a binder for easy and quick reference by all parties. The first page of each binder should have a copy of the exhibit list (see attached) appropriately completed with each exhibit description and its designated number. Plaintiffs shall refer to their exhibits numerically and Defendants shall label theirs alphabetically. Exhibit labels are also attached for your convenience. Exhibits should be brought to Court on the first day of trial.

3. The following matters shall be accomplished no later than *fourteen* (14) *calendar days* prior to the pretrial conference: **Motions in Limine and Objections to Evidence due: 8/29/06**. Each party anticipating making motion(s) in Limine and/or objection(s) to any testimony or exhibits expected to be offered shall file and serve a statement briefly identifying each item objected to and the grounds for the objection.

4. Responses to motions in Limine or objections to evidence shall be filed and served no less than *seven (7) calendar days* prior to the pretrial conference due: **9/5/06**.

H **TRIAL DATE**

Trial before the **JURY** will begin on **9/18/06**, at 8:30 a.m., for an estimated seven trial days, or as soon thereafter as the Court may designate. The parties are advised that they must be prepared to go to trial on a trailing basis. The trial will take place in Courtroom 3 of the United States Courthouse, 1301 Clay Street, 3rd Floor, Oakland, California 94612. The Court's trial hours are from 8:30 a.m. to 2:00 p.m. with two fifteen-minute breaks, on Monday, Wednesday, Thursday and Friday.

I. **TRANSCRIPTS**

If transcripts will be requested during or immediately after the trial, arrangements must be made with the Court Reporter Coordinator (Telephone No. 510-637-3534) at least one week prior to the commencement of trial commences.

J. **STATUS AND DISCOVERY CONFERENCES**

Any party desiring to confer with the Court may, upon notice to all other parties, arrange a conference through the courtroom deputy (Telephone No. 510-637-3541). Conferences may be conducted telephonically, upon request (preferably in writing).

K. **SANCTIONS**

Failure to comply with this order may result in the imposition of sanctions pursuant to FRCP 16(f).

Dated: February 24, 2006

FOLGER LEVIN & KAHN LLP

/s/ Lisa M. van Krieken

Lisa M. van Krieken
Attorneys for Defendant
Starwood Hotels & Resorts Worldwide, Inc.

Dated: February 24, 2006

Law Offices of Stanley G. Hilton

/s/ **Stanley G. Hilton**
(approved on this date)

Stanley G. Hilton
Attorney for Plaintiff Arunee Ryles

1 **IT IS SO ORDERED.**

2 **Dated: March 1, 2006**



SAUNDRA BROWN ARMSTRONG
United States District Court Judge

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